

IN THE DRAWINGS

The drawings have been corrected. Replacements sheets and annotated copies are provided.

REMARKS

Claims 1-25 are pending in the application. Claims 3, 4, 12 and 13 are objected to and would be allowable if rewritten in independent form. Claims 1, 2, 5-11 and 14-20 are rejected. Claims 1, 3, 5, 7, 10, 12, and 17 have been amended. New claims 21-25 has been added. Reconsideration of claims 1-25 is respectfully requested.

Allowable Subject Matter

Claims 3, 4, 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Claims 3, 4, 12, and 13 have been rewritten into independent form and thus should be allowed. Claim 14 is dependant and should also be allowed.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 5-7, 10, 14-17, 19 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bertelsen (U.S. Patent No. 5,060,317).

Claim 1 has been amended. The amendment is support in Figure 1 of the present specification. Bertelsen does not teach each and every element of claim 1 for at least the reason that Bertelsen fails to teach element of a collection section integrally formed with the support apparatus and including an elongated channel for receiving and directing urine into the sample holder.

It was alleged that the duct 2 of the handle 1 in Bertelsen teaches the collection section of claim 1. However, the duct 2 of the handle 1 is instead part of the specimen cup 17 and not integrally formed with the apparatus including the bracket 15 that is configured to sit on the toilet bowl. Including the duct 2 as part of the disposable specimen cup is an inferior design for several reasons. First, including the duct 2 and the handle 1 generates a greater volume of medical waste because the entire sample cup 10 including the duct 2 and handle 1 is disposed of after every use. Secondly, the design is inferior because the sample cup 10 and handle 1 must be made from a relatively more expensive and rigid material to support the weight and function of the handle 1 and duct 2. Thirdly, the design is inferior because the duct 2 is less stable than the claimed elongated channel. For example, the handle 1 would likely be knocked out of position by a forceful stream of urine hitting the base 20 of the duct 2 requiring the sample cup 10 to be repositioned on the apparatus including the bracket 15.

Furthermore, there is no suggestion to modify Bertelsen to make handle 1 and duct 2 integrally formed with the main apparatus. Such a modification would render Bertelsen unsatisfactory for its intended purpose. See MPEP 2143.01. Having the handle 1 as part of the sample cup 10 rather than part of the apparatus is intentionally provided by Bertelsen to enable a user to drain the sample cup 10 into a tube 26 and is a main purpose of Bertelsen. That is, the handle 1 being part of the sample cup 10 enables a user to slip the tube 26 over the handle 1 so that the specimen may be transferred when it is "lifted by tilting back the tube 26 and the specimen may be transferred to the tube 26 by tilting the tube back, which tilts, in turn, the handle 1 and reservoir 10 so that the specimen flows into the handle 1 and then into the tube 26." Bertelsen, col. 4, lines 15-28. Thus Bertelsen teaches away from separating the duct 2 and handle 1 from the sample cup 10.

In contrast claim 1 includes the element of a collection section integrally formed with the support apparatus (rather than the sample holder). The result is that the sample holder can be much smaller and more compact. The compact size and design of the sample holder reduces the quantity of medical waste and is easily stackable for shipping multiple components at the same time. See the present specification page 7, lines 15-17. Moreover, at least because the sample holder does not need to support the added weight of a collection section the sample cup may be made out of inexpensive coated paper. See the present specification, page 6, lines 23-25. Thus, claim 1 should be allowed. Claims 5 and 6 are dependant and should also be allowed.

Claim 5 has been amended. The amendment is support in Figure 1 of the present specification. Bertelsen does not teach each and every element of claim 5 for at least the reason that Bertelsen fails to teach an elongated channel extending from a front face of the attachment section at an upwardly directed angle toward a top front surface of the toilet. In Bertelsen, the duct 2 and handle 1 extend towards a rear of the toilet.

Claim 7 has been amended to reflect the Examiner's suggestion in a May 13, 2005 Office Action. The amendment is support in Figure 1 of the present specification. Bertelsen fails to teach the element of a cap section that substantially covers an open end of the sample holder. There is no suggestion to modify Bertelsen because covering the sample cup of Bertelsen with the apparatus would render the sample cup impossible to remove (by lifting up the cup in Figure 1) from the apparatus including the bracket 15. Substantially covering an open end of the sample holder reduces the likelihood of a spill. Thus, claim 7 should be allowed.

Claim 10 has been amended and should be allowed for at least the same reason as claim 7. Claims 15 and 16 are dependant and should also be allowed. Claim 17 has been amended and should be allowed for at least the same reason as claim 1. Claims 19-20 are dependant and should also be allowed.

Additionally, with regard to claim 19, Bertelsen fails to teach the element of the urine sample collection device, rather than the sample cup, including an overflow opening. In Bertelsen, the overflow opening 18 is part of the sample cup 17 and breaches the sidewall of the sample cup 17. Including the overflow opening on the sample cup 17 is an inferior design because the overflow opening dips down to the level of the urine in a substantially filled sample cup and can allow urine to escape the sample cup 17 when moving a substantially full sample cup 17.

In contrast, including the overflow opening on the sample collection device rather than the collection device allows the entire sidewall of the collection device to extend above the urine level thereby reducing the likelihood of a spill while moving a substantially full sample holder. Thus, claim 19 should be allowed for this additional reason.

Claims 1, 2, 7, 9-11 and 15-20 are rejected under 35 U.S.C. § 102 (e) as being anticipated by House (U.S. Patent No. 6,811,754).

Claim 1 has been amended. House does not teach each and every element of claim 1 for at least the reason that House fails to teach element an elongated channel funneling the received urine into the detachable sample cup. Thus, claim 1 should be allowed.

With regard to claim 2, House fails to teach the element of a flow divider that separates an initial portion of the urine from entering the sample cup.

It was alleged that the overflow spout 42 teaches this element. However, the overflow spout 42 does not separate an initial portion of the urine from entering the catch bowl 14. Instead the overflow spout 42 operates only when the catch bowl 14 is completely full. Although one could manually move the catch bowl into the stream to collect a midstream sample (col. 4, lines 57-65 of House), this is a messy solution and still does not teach a collection device including flow divider that separates an initial portion of the urine from entering the sample cup.

In contrast, claim 2 includes the element of a flow divider that separates an initial portion of the urine from entering the sample cup. As stated in the present specification, sampling the mid-stream flow is advantageous because it is cleaner and more representative of the urine in the bladder. Thus claim 2 should be allowed.

Claim 7 has been amended to reflect the Examiner's suggestion in a May 13, 2005 Office Action. The amendment is support in Figure 1 of the present specification. House fails to teach the element of a cap section that substantially covers an open end of the sample holder. There is no suggestion to modify House because covering the cup of House would render the collection device of House inoperable. Thus, claim 7 should be allowed. Claim 9 is dependant and should be allowed.

Claim 10 has been amended and should be allowed for at least the same reason as claim 7. Claims 11, 15 and 16 are dependant and should also be allowed. Claim 17 has been amended and should be allowed for at least the same reason as claim 1. Claims 18-20 are dependant and should also be allowed.

Additionally with regard to claim 19, House fails to teach the element of an overflow opening that causes a portion of the urine in the sample cup to overflow into the toilet *before* the urine completely fills up the sample cup. In House, the overflow spout 42 operates only after the catch bowl is completely full resulting in a mess on the sidewalls of the cup (see House, Figure 5.) Thus claim 19 should be allowed.

Claims 1, 6-10, 17 and 20 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Gordon (U.S. Patent No. 6,434,762).

With regard to claim 1, Gordon fails to disclose the element of an elongated channel. Thus claim 1 should be allowed. Claims 6-9 are dependant and should also be allowed. With regard to claim 10, Gordon fails to disclose a cap section for coupling to and substantially covering a removable sample cup. Thus claim 10 should be allowed. With regard to claim 17, Gordon fails to teach the element of an elongated channel. Thus claim 17 should be allowed. Claim 20 is dependant and should also be allowed.

New claims

New claims 21-24 have been added.

New claim 25 has been added. Support for claim 25 is provided on Figure 1 of the present specification.

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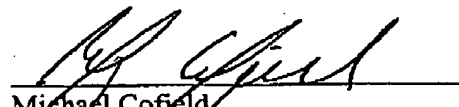
CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-25 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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